

Count II

35. Paragraphs 1 through 30 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

36. Wis. Adm. Code NR 422.142(5)(b)2 required Respondent to demonstrate compliance with the appropriate destruction efficiency or emission rate in sub. Wis. Adm. Code NR 422.142(2)(a) by performing compliance emission tests on the control device for Press #456 by July 1, 1996.

37. Respondent performed the initial compliance emission test required by Wis. Adm. Code NR 422.142(5)(b)2 on Press #456 on April 6, 1999 and thus failed to meet the July 1, 1996 deadline.

38. Respondent's failure to demonstrate compliance with the appropriate destruction efficiency or emissions rate in Wis. Adm. Code NR 422.142(2) by failing to perform an initial compliance emission test on the control device for Press #456 by July 1, 1996, is a violation of Wis. Adm. Code NR 422.142(5)(b)2 and the federally enforceable SIP for Wisconsin.

COUNT III

39. Paragraphs 1 through 30 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

40. Wis. Adm. Code NR 422.142(6)(b)1 required Respondent to

submit to WDNR not later than September 1, 1996 written certification that Press #451 is in compliance with the applicable requirements of NR 422.142(2) and NR 422.142(3) and a demonstration that Press #451 is in compliance in accordance with NR 422.142(4) and NR 422.142(5).

41. For Press #451, Respondent submitted to WDNR the written certification of compliance required by Wis. Adm. Code NR 422.142(6)(b)1. on February 3, 1997; and the demonstration of compliance required by Wis. Adm. Code NR 422.142(6)(b)1. in May 1999. Respondent thus failed to meet the September 1, 1996 deadline for certification and demonstration of compliance.

42. Respondent's failure to submit to WDNR written certification and a demonstration that Press #451 is in compliance with the applicable requirements of Wis. Adm. Code NR 422.142(4) and (5) by September 1, 1996 is a violation of Wis. Adm. Code NR 422.142(6)(b)1., and the federally enforceable SIP for Wisconsin.

#### COUNT IV

43. Paragraphs 1 through 30 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

44. Wis. Adm. Code NR 422.142(6)(b)1 required Respondent to submit to WDNR not later than September 1, 1996, written certification that Press #456 is in compliance with the

applicable requirements of subs. (2) and (3) and a demonstration that Press #456 is in compliance in accordance with subs. (4) and (5).

45. For Press #456, Respondent submitted to WDNR the written certification of compliance required by Wis. Adm. Code NR 422.142(6)(b)1. on February 3, 1997; and the demonstration of compliance required by Wis. Adm. Code NR 422.142(6)(b)1. in May 1999. Respondent thus failed to meet the September 1, 1996 deadline for certification and demonstration of compliance.

46. Respondent's failure to submit to WDNR written certification and a demonstration that Press #456 is in compliance with the applicable requirements of Wis. Adm. Code NR 422.142(4) and (5) by September 1, 1996 is a violation of Wis. Adm. Code NR 422.142(6)(b)1., and the federally enforceable SIP for Wisconsin.

#### COUNT V

47. Paragraphs 1 through 30 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

48. Section 113 of the Clean Air Act, as provided by 40 C.F.R. § 52.23, requires Respondent to comply with permit conditions issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources. Respondent must comply with Specific Condition #4, (Permit 95-

DAA-276-OP), -which limits monthly VOC usage for automatic blanket wash processes to 2,315 pounds VOC per month, for combined usage of Presses #451, 456, 457 and 458, based on a twelve month rolling average.

49. For every month from January 1998 through July 1999, Respondent's monthly VOC usage for automatic blanket wash processes exceeded 2,315 pounds VOC per month, for combined usage of Presses #451, 456, 457 and 458, based on a twelve month rolling average (See Attachment). Respondent thus failed to comply with Specific Condition #4, Permit 95-DAA-276-OP.

50. Respondent's failure to comply with Specific Condition #4, Permit 95-DAA-276-OP, is a violation of a permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, and is therefore subject to enforcement action under Section 113 of the Clean Air Act as provided by 40 C.F.R. §52.23.

#### COUNT VI

51. Paragraphs 1 through 30 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

52. Pursuant to Section 113 of the Clean Air Act as provided by 40 C.F.R. § 52.23, Respondent is required to comply with certain permit conditions issued pursuant to approved or promulgated regulations for the review of new or modified

stationary or indirect sources. Respondent is required to comply with Specific Condition #7, (Permit 95-DAA-297), which limits fountain solution VOC usage for Press #455 to 102 pounds VOC per month, based on a twelve month rolling average.

53. From June 1998 through May 1999, Respondent's monthly VOC usage of fountain solution for Press #455 exceeded 102 pounds VOC per month for a twelve month rolling average (See Attachment). Respondent thus failed to comply with Specific Condition #7, Permit 95-DAA-297.

54. Respondent's failure to comply with Specific Condition #7, Permit 95-DAA-297, is a violation of a permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, and is therefore subject to enforcement action under Section 113 of the Clean Air Act as provided by 40 C.F.R. §52.23.

#### **Proposed Civil Penalty**

55. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

56. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$127,200. Complainant evaluated the facts and circumstances of this case with specific reference

to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.

57. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

#### **Rules Governing This Proceeding**

58. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (the Consolidated Rules) at 64 Fed. Reg. 40138 (1999), codified at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

#### **Filing and Service of Documents**

59. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590